

STEVEN WYLLIE (SB#161752)
Steven.Wyllie@nlrb.gov
JUAN CARLOS OCHOA DIAZ (SB#260298)
Juan.OchoaDiaz@nlrb.gov
NAYLA WREN (SB#299854)
Nayla.Wren@nlrb.gov
National Labor Relations Board
Region 31
11500 W. Olympic Blvd., Suite 600
Los Angeles, CA 90064
Telephone: (310) 235-7351
Facsimile: (310) 235-7420

Attorneys for Applicant

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

BRIAN D. GEE, Acting Regional
Director of Region 31 of the National
Labor Relations Board, for and on
behalf of the NATIONAL LABOR
RELATIONS BOARD,

Petitioner,

v.

CHARTER COMMUNICATIONS,
LLC,

Respondent.

Case No. 2:16-CV-03276-GW-RAOx

OPPOSITION TO RESPONDENT'S
EX PARTE APPLICATION TO
CONTINUE HEARING ON
PETITIONER'S MOTION RE:
PETITION FOR TEMPORARY
INJUNCTION FROM JUNE 13, 2016
TO JUNE 30, 2016

Date: June 13, 2016

Time: 8:30 a.m.

Courtroom: 10

For the reasons that follow, Petitioner opposes Respondent's Ex-Parte Application to Continue Hearing on Petitioner's Motion re: Petition for Temporary Injunction from June 13, 2016 to June 30, 2016.

1. The first unfair labor practice charge in this matter was filed on April 14, 2015, and served on Respondent on April 17, 2015. Therefore, Respondent has

1 been aware of the substantive issues underlying the Petition for over 13 months. Dkt.
2 1, Exhibit 1 to Petition, p 15.

3 2. Over the course of the Petitioner's investigation of the unfair labor
4 practice charges since April 14, 2015, Respondent has gathered and prepared
5 substantial evidence and has prepared legal arguments in response to the underlying
6 unfair labor practice charges. See Declaration of Nayla Wren, ¶¶ 4-11, and Exhibits
7 1-7 attached hereto.

8 3. Respondent was first asked to provide its position regarding the
9 applicability of Section 10(j) relief on July 27, 2015, and was again requested to
10 provide its position regarding the applicability of Section 10(j) relief on August 25,
11 2015 and November 4, 2015. Respondent provided evidence and legal arguments
12 regarding the applicability of Section 10(j) relief on August 17, 2015 and November
13 10, 2015. See Declaration of Nayla Wren, ¶¶ 6-10, and Exhibits 3-7 attached hereto.

14 4. Respondent was clearly put on notice of the underlying unfair labor
15 practice allegations at issue when the Petitioner issued the Order Consolidating
16 Cases, Consolidated Complaint and Notice of Hearing, herein the Complaint, on
17 January 29, 2016. Dkt. 1, Exhibit 2 to Petition, pp. 30-40.

18 5. Given the noticed April 4, 2016 hearing date in the Complaint,
19 Respondent should have been preparing, and almost certainly was preparing, for a
20 hearing through at least March 31, 2016, when the hearing was postponed to
21 investigate new unfair labor practice charges. Dkt. 1, Exhibit 2 to Petition, p. 51-52.

22 6. Thus, since issuance of the Complaint, Respondent has had nearly four
23 months to substantively prepare to address the underlying unfair labor practice
24 allegations, which is the most time-intensive portion of Respondent's opposition to
25 the Petition.

26 7. Moreover, Respondent's position regarding the applicability Section
27 10(j) relief was first requested by the Petitioner nearly 10 months ago, and
28 Respondent twice provided evidence and legal arguments regarding the applicability

1 Section 10(j) relief. Thus, Respondent has had nearly ten months to prepare the
2 legal arguments and evidence that will likely comprise its opposition to the Petition.
3 See Declaration of Nayla Wren, ¶¶ 6-10, and Exhibits 3-7 attached hereto.

4 8. In any event, Respondent was notified nearly six weeks ago that
5 Petitioner would likely be filing the instant Petition, and could have begun gathering
6 and reformatting its already-prepared legal arguments for its opposition to the
7 Petition. See Declaration of Nayla Wren, ¶ 15.

8 9. Accordingly, a continuance of the June 13, 2016 hearing and
9 continuance of the deadline for Respondent to file its opposition is not warranted.
10 With respect to the unavailability of Respondent's counsel Henry Farber on the
11 scheduled hearing date, maintaining this hearing date will not prejudice Respondent
12 because Mr. Farber's co-counsel has been involved in the underlying matter for over
13 one year, since April 20, 2015, and should be as familiar with the case as Mr. Farber.
14 See Declaration of Nayla Wren, ¶ 18, and Exhibit 8 attached hereto. Furthermore,
15 Respondent will have the benefit of Mr. Farber's representation through June 10,
16 2016, essentially only requiring that Mr. Ball represent Respondent alone at the
17 hearing on June 13, 2016, should the Court still deem a hearing necessary after
18 Respondent's opposition and Petitioner's reply papers are filed. Finally, to the
19 extent that the Court is inclined to continue the hearing, a continuance of the
20 deadline for Respondent to file its opposition is not warranted given that Respondent
21 has, as detailed above, been presenting evidence and legal arguments regarding the
22 underlying unfair labor practices for nearly 11 months, has been presenting evidence
23 and legal arguments regarding the applicability of Section 10(j) relief for nearly 10
24 months, and has now known for six weeks of the likelihood of the instant Petition.

25
26 /s/ Nayla Wren
27 Nayla Wren
28 Attorney for Petitioner
National Labor Relations Board